



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/509,619

09/29/2004

Silvia Marabini

2546-1005

7780

466 7590 11/13/2009
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

EXAMINER

LUDLOW, JAN M

ART UNIT

PAPER NUMBER

1797

NOTIFICATION DATE

DELIVERY MODE

11/13/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/509,619	Applicant(s) MARABINI ET AL.	
	Examiner Jan M. Ludlow	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election with traverse of claims 1, 3-5 in the reply filed on June 29, 2009 is acknowledged. The traversal is on the ground(s) that the document which teaches the "special technical feature" has not been identified. This is not found persuasive because the examiner referenced the previous office action, which clearly states that Squicciarini teaches the special technical features recited by the examiner. Further, the reason the restriction has been required at this point in prosecution is because applicant amended the apparatus and method claims to have different special technical features beyond those taught by Squicciarini, making the two inventions distinct, as clearly explained by the examiner.

The requirement is still deemed proper and is therefore made FINAL.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Squicciarini (US 2003/0021731).

3. For claim 6, Squicciarini teaches an analyzer for analyzing residual solvents and automatically determining its content (0013 lines 1-2) capable of extracting acetaldehyde from PET and automatically determining its content, which comprises; a desorption cell into which said sample is inserted (0027 line 3); means for scavenging

Art Unit: 1797

said desorption cell with air (fitting 24 which can be a cylinder with air used for scavenging, 0047 line 3); means for incubating and heating a sample placed in the cell (0028 line 2); means for pressurizing the cell (0037); an analyzer-system comprising a separation column (0040) capable of being optimized for acetaldehyde separation; a loop connectable to said cell (0051) capable of receiving an aeriform acetaldehyde sample and transmitting it to an optimized separation column and then to a detector; a complex of controlled valve-means (automatic valve assembly 0040) capable of manipulating the fluids flowing within the analyzer. It is the examiner's position that the detector 17 is inherently capable of analyzing acetaldehyde.

4. For claim 7, Squicciarini teaches a processing and control unit (0038) which is capable of controlling the valve means.
5. For claim 8, Squicciarini teaches a means for measuring the partial pressure (0049 lines 6-8) during a cycle (during desorption step).
6. For claim 9, Squicciarini teaches that the cell is provided with a perforable baffle (pierceable septum, 0042 lines 4-5) capable of being injected with a mixture of known acetaldehyde concentration for calibration purpose.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squicciarini (US 2003/0021731) in view of Andrews et al. (WO 01/02489) and Treece et al. (US 5,968,429).

11. Squicciarini teaches an analyzer for analyzing residual solvents and automatically determining its content (0013 lines 1-2) capable of extracting acetaldehyde from PET and automatically determining its content, which comprises; a desorption cell (vial 36 or 37, see Figure 3) into which said sample is inserted (0042); a seat 31 into which the desorption cell is inserted; means for scavenging said desorption

Art Unit: 1797

cell with air (fitting 24 which can be a cylinder with air used for scavenging, 0047 line 3); means for incubating and heating a sample placed in the cell (0028 line 2); means for pressurizing the cell (0037); an analyzer-system comprising a separation column (0040) capable of being optimized for acetaldehyde separation; a loop connectable to said cell (0051) capable of receiving an aeriform acetaldehyde sample and transmitting it to an optimized separation column and then to a detector; a complex of controlled valve-means (automatic valve assembly 0040) capable of manipulating the fluids flowing within the analyzer. It is the examiner's position that the detector 17 is inherently capable of analyzing acetaldehyde.

12. For claim 1, Squicciarini teaches a method for extracting and analyzing residual solvents in the sample in which the sample is located to the desorption cell (0051). Squicciarini does not teach that the sample is a PET sample. Andrews teaches a mixture of PET and a second polymer which exhibits a lower acetaldehyde content than PET alone (see Abstract). Acetaldehyde concentration was measured using a thermal desorption GC-MS (p. 6). At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the invention of Squicciarini to analyze PET samples for acetaldehyde content since it provides a desorption cell capable of being heated, i.e. a thermal desorption cell that could separate acetaldehyde from PET. For claim 1, Squicciarini teaches washing or scavenging said desorption cell with a carrier gas (0048), incubating and heating the sample placed in the cell (0057, line 7), pressurizing the cell (0052 lines 1-2), charging a loop (filling the loop, 0053, lines 1-2), and transferring the loop content to a gas chromatography column (0054, lines 1-2) and

Art Unit: 1797

from there to the detector (0054 line 4). Squicciarini does not specifically teach that the cell is washed with air. Treece et al. teach a method for removing acetaldehyde from PET polymers (col. 4 lines 41-44) which can use dehumidified air (col. 7 line 4). At the time of the invention it would have been obvious to a person of ordinary skill in the art to utilize air to scavenge or wash any residual acetaldehyde in the cell since air would dissolve any acetaldehyde present in the cell (Treece, col. 7 line 5) which would rid the system of any acetaldehyde not from the sample.

13. For claim 4, the teaching of Squicciarini/Andrews/Treece are specific, i.e. optimized for acetaldehyde separation.

14. For claim 5, Squicciarini teaches an analysis cycle (0045 line 1) in which the cell scavenging with air would commence after removal of the sample.

15. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squicciarini (US 2003/0021731) in view of Andrews et al. (WO 01/02489) and Treece et al. (US 5,968,429) further in view of Jerman et al. (US 4,471,647).

16. For claim 3, Squicciarini/Andrews/Treece teaches the elements of claim 1. They do not teach that the loop content is transferred by a transport gas such as hydrogen. Squicciarini teaches using a carrier gas to the capillary column (0048 line 4) but does not teach that it is hydrogen. Jerman teaches a gas chromatography system, detector and method in which a hydrogen carrier gas is used (col. 4 lines 64-66). At the time of the invention it would have been obvious to a person of ordinary skill in the art to use a standard carrier gas such as hydrogen as a carrier gas because of its sensitivity over other carrier gases.

Art Unit: 1797

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Andrews (6191209) additionally teaches heating a sample of PET in a desorption vessel and analyzing headspace gas by GC/MS (col. 4, lines 26-41).

1. Applicant's arguments filed March 9, 2009 have been fully considered but they are not persuasive.

2. Applicant argues that the method and apparatus of Squicciarini requires placing samples in a vial inside the desorption cell, whereas in the instant invention the samples are placed directly in the cell. In the instant rejection, the vial 36 or 37 constitutes the desorption cell. There is no language precluding an additional vessel (e.g., seat 31) surrounding the desorption cell 36 or 37 for pressurizing, scavenging, heating or incubating the contents of cell 36 or 37.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan M. Ludlow whose telephone number is (571) 272-1260. The examiner can normally be reached on Monday, Tuesday and Thursday, 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jan M. Ludlow
Primary Examiner
Art Unit 1797

/Jan M. Ludlow/
Primary Examiner, Art Unit 1797